

E-Filing Policy Issue - # 14

(Fee for Proposed Order)

Issue: (State the issue and whether it is specific to a certain level of court or case type.)

Costs associated with filing a proposed order.

Discussion: (Provide the factual setting or context for the issue.)

Fees were set forth by AJC regarding intelligent and attached forms for several case types. Proposed orders were not considered at that time.

A proposed order may be e-filed on its own, for example when a judge instructs the attorneys to submit a proposed order on a matter under consideration by the judge or perhaps when the judge renders a decision from the bench but instructs the attorneys to prepare the order. Alternatively, a proposed order may be submitted by an attorney in conjunction with a pleading on which the attorney is seeking the order.

E-filing delivery is a service and a convenience. A nominal fee for delivery would help support the project.

Authorities: (Provide references to specific statutes, rules, codes or administrative orders you believe are pertinent to the issue.)

Rules of Civil Procedure for the Superior Courts of Arizona

II. Commencement of Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

Rule 5. Service and Filing of Pleadings and Other Papers

Rule 5(j). Proposed Orders and Proposed Judgments

(2) Stipulations and Motions; Proposed Forms of Order.

(A) All written stipulations shall be accompanied by a proposed form of order. The party submitting the stipulation shall include with it copies to be conformed, together with envelopes stamped and addressed to each party who has entered an appearance in the case, unless otherwise provided for by the presiding judge. If the proposed form of order is signed, no minute entry shall issue.

(B) Any motion that is accompanied by a proposed form of order shall also include with it copies to be conformed, together with envelopes stamped and addressed to each party who has entered an appearance in the case. If the proposed form of order is signed, no minute entry shall issue.

Alternative Solutions: (List all identified alternative solutions for the issue.)

- Charge a nominal fee to e-file a stand-alone, proposed order (which is generally filed at the instruction of the judge), but no fee to e-file a proposed order submitted along with a pleading on which an attorney/party is seeking the order (since the attorney/party must pay a User Fee for e-filing the underlying pleading).
- Charge a nominal fee to e-file a proposed order, whether the proposed order is filed separately or with another pleading.

Position/Recommendation: (Does the AOC E-filing team have a recommendation on this issue?)

The AOC E-filing team recommends that a nominal fee be assessed on a proposed order which is filed without a lead document and to allow the proposed order to be submitted without a fee when it is attached to a lead document. There is already a fee associated with the lead document and delivery is already taking place and covered by the lead document fee. Civil Rule 5(j)(2) would need to be changed.

Decision:

When the proposed order accompanies a filing, it is covered by the usage fee associated with the filing. Where the proposed order is filed alone, a nominal usage fee is warranted.